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9  
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1 PROCEEDINGS

2 THE CLERK: Court is now in session in the matter of  
3 United States of America vs. Janssen Biotech, Civil Action  
4 Number 16-12182.

5 Participants are reminded that photographing,  
6 recording or rebroadcasting of this hearing is prohibited and  
7 may result in sanctions.

8 Would counsel please identify themselves for the  
9 record, starting with the plaintiff.

03:21PM 10 MR. LEOPOLD: Good afternoon, your Honor, Ted Leopold  
11 on behalf of the relator U.S. Government.

12 THE COURT: Good afternoon.

13 MR. LEOPOLD: Good afternoon.

14 MR. PRESTON: Good afternoon, your Honor, this is  
15 Casey Preston on behalf of plaintiff relator.

16 THE COURT: Good afternoon.

17 MR. AZORSKY: Gary Azorsky on behalf of the relator.

18 THE COURT: Good afternoon.

19 MR. POSNER: That's all for plaintiffs, your Honor.

03:21PM 20 THE COURT: All right. For the defendant?

21 MR. POSNER: Ethan Posner from Covington & Burling for  
22 defendant Janssen. Good afternoon.

23 THE COURT: Good afternoon.

24 MS. TREMONT: Good afternoon, your Honor,  
25 Sarah Tremont from Covington as well as for defendant Janssen.

1 Good afternoon.

2 THE COURT: Good afternoon.

3 MS. DINGLE: Good afternoon. This is Shanya Dingle  
4 from Covington & Burling as well on behalf of the defendant  
5 Janssen.

6 THE COURT: Good afternoon.

7 MR. BAER: This is Nick Baer from Covington & Burling  
8 on behalf of defendant Janssen. Good afternoon.

9 THE COURT: All right. This is a status conference in  
03:22PM 10 this case. Let me cut to the chase I think here in terms of  
11 the issues, as I see them, with regard particularly to the  
12 scope and timing of discovery. I've had a lengthy conference  
13 with Magistrate Judge Kelley about where things stand and her  
14 view of things and what she has done, and what I'm going to do  
15 is this. I'm basically going to leave things where they are.  
16 Any party has the right to appeal any particular discovery  
17 order to me through normal channels.

18 I should add that I've also read the -- I think  
19 there's two letters from Covington on the docket that I've read  
03:23PM 20 as well as part of this mix, but I'm going to leave things  
21 where they are in terms of any appeal from a discovery order  
22 should be made to me through normal channels.

23 The one wrinkle in all of this is the discovery  
24 deadlines. Magistrate Judge Kelley has a discovery deadline of  
25 July 16th, which is firm unless and until I change it, but I'm

1 going to leave that in place for now, and I understand that  
2 there's a further status at the beginning of May and there will  
3 likely be other statuses as well, and we'll see how things move  
4 going forward.

5 I am certainly -- I think she thinks that in light of  
6 where the case is that that discovery deadline should hold, and  
7 my instinct is to agree with that, but I'll listen what the  
8 parties have to say as we get closer to the deadline. So that  
9 may cut out most of what you're here to discuss, but let me  
03:24PM 10 pause there and ask whether counsel for the relator or the  
11 government have anything that they want to take up?

12 MR. LEOPOLD: This is Ted Leopold for the relator.  
13 I'm totally fine with what the Court has just stated. I would  
14 state, I'm sure this would go for everyone, Magistrate Judge  
15 Kelley has been tremendously helpful, at least from our  
16 perspective about moving the case forward and starting the  
17 process of what we need in order to begin the deposition  
18 process, so we greatly appreciate her being available to us.

19 THE COURT: Okay. Anything from the relator?

03:25PM 20 MR. PRESTON: From Janssen, your Honor, I'm sorry?

21 THE COURT: I'm sorry, I was actually directing that  
22 to Attorney Preston, but I'll hear from counsel for Janssen,  
23 Mr. Posner.

24 MR. POSNER: Good afternoon, your Honor. Yeah, I  
25 think we understand the order. I think we agree that the

1 magistrate has been helpful. We're negotiating with the  
2 relator on a set of search terms that will guide the production  
3 of documents from agreed-upon custodians in this case. I think  
4 we're now going back over a 10-year period, and we'll, you  
5 know, we've got some edits on the relator's search terms that  
6 we're going to provide quite shortly.

7 You know, we've got about 225,000 hits on just I think  
8 four or five custodians. You know, we may have an analogous  
9 number. I'm just not sure for the remainder. You know, we've  
03:26PM 10 already produced about, I don't know, a little over two and a  
11 half million pages, so we have a lot of documents to review,  
12 depending on how the final search terms shake out.

13 You know, this is sort of a process, you know, there  
14 are these third-party companies, and, you know, there are  
15 document reviewers that review this stuff along with our  
16 personnel.

17 I guess I'm just cautioning the Court that with close  
18 to potentially half a million more documents to review, and,  
19 you know, whatever that resulting number is to produce along  
03:27PM 20 with doing all the fact depositions in less than 90 days is  
21 going to be a significant challenge.

22 We just have a mountain of documents that we're likely  
23 going to have to review. The vast majority of these are going  
24 to be outside the scope of Pennsylvania, and we understand the  
25 magistrate's orders, we're not challenging those, but the

1 numbers are what the numbers are, so I guess I'm just noting  
2 that when we convene in May, we'll set a status report, we'll  
3 work as hard as we can. We're trying to finalize the search  
4 terms, but there will be a lot of documents to review. It's a  
5 very large case that now appears to encompass the vast majority  
6 of the production that was made to the justice department.  
7 Very little of those documents involve Pennsylvania, and we're  
8 almost done with that production, so I'm just noting for the  
9 record that we have an extraordinary number of documents to get  
03:28PM 10 through in a short amount of time.

11 THE COURT: Okay. Just a couple observations. I'm  
12 certainly familiar with the drill and the challenges that that  
13 poses. I have great confidence in Magistrate Judge Kelley.  
14 That doesn't mean she's always right, but I have great  
15 confidence in her abilities and judgment, and I will, I hope,  
16 listen to reason, but I will need to be convinced, you know,  
17 that you need relief in whatever form you're seeking, and part  
18 of that process is convincing me that you really are doing what  
19 you can, you know, in the time allotted and that you can't meet  
03:29PM 20 the challenge, for whatever reason, and I will smile more  
21 favorably on, you know, requests for an additional 24 hours and  
22 an additional 24 months, so, you know, let's see how it goes.

23 In the meantime, I think I'm just going to set it for  
24 a further status toward the end of May, and we'll see where  
25 developments stand at that point, okay? I'm not sure I have

1 much to add at this stage on that, but why don't we -- and I'm  
2 sure every Covington associate is grateful for the existence of  
3 these document requests, but, let's see, how about 3:30 on  
4 May 27th, further status?

5 MR. POSNER: That's fine, your Honor.

6 MR. LEOPOLD: Thank you, your Honor.

7 THE COURT: Okay. And, you know, roll up your  
8 sleeves, metaphorically speaking, and let's see how this plays  
9 out, okay?

03:30PM 10 MR. LEOPOLD: Thank you, your Honor. We appreciate  
11 your time.

12 MR. POSNER: Thank you.

13 THE COURT: Anything else?

14 MR. LEOPOLD: No, your Honor, thank you.

15 (Whereupon, the hearing was adjourned at  
16 3:30 p.m.)

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C E R T I F I C A T E

UNITED STATES DISTRICT COURT )  
DISTRICT OF MASSACHUSETTS ) ss.  
CITY OF BOSTON )

I do hereby certify that the foregoing transcript,  
Pages 1 through 9 inclusive, was recorded by me  
stenographically at the time and place aforesaid in Civil  
Action No. 16-12182-FDS, THE UNITED STATES OF AMERICA ex rel.  
JULIE LONG vs. JANSSEN BIOTECH, INC., and thereafter by me  
reduced to typewriting and is a true and accurate record of the  
proceedings.

Dated September 20, 2023.

s/s Valerie A. O'Hara

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VALERIE A. O'HARA  
OFFICIAL COURT REPORTER